



DEPARTMENT OF THE NAVY

BOARD FOR CORRECTION OF NAVAL RECORDS

2 NAVY ANNEX

WASHINGTON DC 20370-5100

MEH:ddj

Docket No: 4842-99

1 August 2000

[REDACTED]

I

[REDACTED]

This is in reference to your application for correction of your deceased spouse's naval record pursuant to the provisions of title 10 of the United States Code, section 1552.

A three-member panel of the Board for Correction of Naval Records, sitting in executive session, considered your application on 1 August 2000. Your allegations of error and injustice were reviewed in accordance with administrative regulations and procedures applicable to the proceedings of this Board. Documentary material considered by the Board consisted of your application, together with all material submitted in support thereof, your spouse's naval record and applicable statutes, regulations and policies. In addition, the Board considered the advisory opinion furnished by CMC memorandum 1760 MMSR-6J of 1 June 2000, a copy of which is attached.

After careful and conscientious consideration of the entire record, the Board found that the evidence submitted was insufficient to establish the existence of probable material error or injustice. In this connection, the Board substantially concurred with the comments contained in the advisory opinion. Accordingly, your application has been denied. The names and votes of the members of the panel will be furnished upon request.

It is regretted that the circumstances of your case are such that favorable action cannot be taken. You are entitled to have the Board reconsider its decision upon submission of new and material evidence or other matter not previously considered by the Board. In this regard, it is important to keep in mind that a presumption of regularity attaches to all official records. Consequently, when applying for a correction of an official naval record, the burden is on the applicant to demonstrate the existence of probable material error or injustice.

Sincerely,

W. DEAN PFEIFFER
Executive Director

Enclosure



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THE HONORABLE BOB SMITH
UNITED STATES SENATOR
1750 ELM STREET SUITE 100
MANCHESTER NH 03104

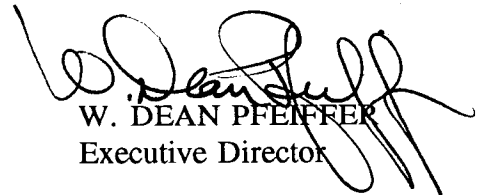
Dear Senator Smith:

This is in response to your letter of July 21, 1999, concerning the petition of Mrs. Edith Eldridge, widow of Fire [REDACTED] SMC, Retired (Deceased).

The Board has completed its review of the circumstances attending her petition. The review did not disclose the existence of an error or injustice. Accordingly, the application was denied. [REDACTED] has been advised in the premises by separate correspondence. A copy of that letter is enclosed.

Your interest in the case is appreciated, and the Board regrets that the circumstances are such that a more favorable determination cannot be made.

Sincerely,


W. DEAN PFENFER
Executive Director

Enclosures



DEPARTMENT OF THE NAVY
HEADQUARTERS UNITED STATES MARINE CORPS
3280 RUSSELL ROAD
QUANTICO, VIRGINIA 22134-5103


IN REPLY REFER TO:
1760
MMSR-6J
1 Jun 00

MEMORANDUM FOR THE EXECUTIVE DIRECTOR, BOARD FOR CORRECTION OF
NAVAL RECORDS

Subj: BCNR APPLICATION IN THE CASE OF THE LATE FIRST SERGEANT
[REDACTED]

Ref: (a) MMR Route Sheet of 11May00, Docket No. 4842-99

1. The reference requests an advisory opinion on M [REDACTED] petition to correct First Sergeant Eldridge's records to show that he elected Survivor Benefit Plan (SBP) coverage.
2. The Retired Serviceman's Family Protection Plan (RSFPP) was in effect when First Sergeant [REDACTED] transferred to the Fleet Marine Corps Reserve (FMCR) on 30 November 1970. There is nothing in his service record that indicates that he requested coverage in that plan when he transferred to the FMCR.
3. The Survivor Benefit Plan (SBP), which superseded the RSFPP, was created by Public Law 92-425 in September 1972. Previously retired members were given until 20 March 1974 to elect SBP coverage. Information explaining the SBP and election forms were mailed to retirees during October 1972, using mailing labels prepared from the retired pay and retainer pay data bank. For eighteen months following its inception, the Plan was highly publicized in the news media as well as in periodicals of both the Armed Forces and various associations oriented toward the military community. There is no record that shows First Sergeant [REDACTED] elected SBP coverage during this enrollment period.
4. First Sergeant [REDACTED] would have been transferred from the FMCR to the Retired List in December 1980. He died on 7 March 1979. His next opportunity to elect SBP coverage would have been during the 1982-83 open enrollment period.
5. Unfortunately, we cannot find any evidence to indicate that he chose to participate in either of the annuity plans during the opportunities offered. We regret that Mrs. [REDACTED] is therefore not entitled to a monthly annuity from the Marine Corps.


J. P. RATHBUN, JR.
Head, Separation and
Retirement Branch
By direction of the Commandant
of the Marine Corps